

ASSEMBLY BILL

No. 496

Introduced by Assembly Member Correa
(Coauthors: Assembly Members Maddox, and Negrete McLeod)
(Coauthor: Senator Soto)

February 14, 2003

An act to add and repeal Division 23.6 (commencing with Section 33807) to the Public Resources Code, relating to the Santa Ana River Conservancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as introduced, Correa. Santa Ana River Conservancy.

Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.

This bill would, until January 1, 2011, establish the Santa Ana River Conservancy to acquire and direct the management of specified public lands in the Santa Ana River watershed area and would prescribe the management, powers, and duties of the conservancy. The bill would also create the Santa Ana River Conservancy Fund, but this provision would not become operative until the Legislature appropriates, or a bond act approved by the voters allocates, the necessary funds.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 23.6 (commencing with Section
2 33807) is added to the Public Resources Code, to read:
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1 DIVISION 23.6. SANTA ANA RIVER CONSERVANCY

2
3 Article 1. General Provisions and Definitions

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5 33807. This division shall be known, and may be cited, as the
6 Santa Ana River Conservancy Act.

7 33808. (a) The Santa Ana River is the largest stream system
8 in southern California. As a unit, the watershed covers an area of
9 about 2,700 square miles in parts of Orange, San Bernardino, and
10 Riverside Counties. The river has been subjected to intense
11 development and is in need of restoration, conservation, and
12 enhancement all along its length.

13 (b) Given the opportunities available, the state finds and
14 declares that the Santa Ana River and its tributary, the Santiago
15 Creek, constitute a unique and important open-space,
16 environmental, anthropological, cultural, scientific, educational,
17 recreational, scenic, and wildlife resource that should be held in
18 trust to be preserved and enhanced for the enjoyment of, and
19 appreciation by, present and future generations.

20 33809. For purposes of this division, the following terms have
21 the following meanings:

22 (a) “Board” means the governing board of the Santa Ana River
23 Conservancy.

24 (b) “Conservancy” means the Santa Ana River Conservancy.

25 (c) “Territory” means the entire length of the Santa Ana river
26 and the watershed areas that are located within the counties of
27 Orange, Riverside, and San Bernardino.

28
29 Article 2. The Santa Ana River Conservancy

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31 33815. There is in the Resources Agency, the Santa Ana River
32 Conservancy, which is created as a state agency for the following
33 purposes:

34 (a) To acquire and manage public lands within the Santa Ana
35 River watershed, and to provide recreational opportunities, open
36 space, wildlife habitat and species restoration and protection,
37 wetland protection and restoration, protection and maintenance of
38 the quality of the waters in the Santa Ana River for all beneficial
39 uses, lands for educational uses within the area, and natural
40 floodwater conveyance.

(b) To provide for the public's enjoyment, and to enhance the recreational and educational experience on public lands in the territory in a manner consistent with the protection of land and natural resources, and economic resources in the area.

33820. The conservancy shall do all of the following:

(a) Establish policies and priorities for the conservancy regarding the Santa Ana River and its watershed, and conduct necessary planning activities, in accordance with the purposes set forth in Section 33815.

(b) Give priority to river related projects that create expanded opportunities for recreation, greening, aesthetic improvement, and wildlife habitat along the corridor of the river and in parts of the river channel that can be improved for the above purposes without infringing on water quality, water supply, and necessary flood control.

(c) Approve conservancy-funded projects that advance the purposes set forth in Section 33815.

(d) Prepare a Santa Ana River Parkway and Open Space Plan. The plan shall accomplish, at minimum, all of the following:

(1) Determine the policies and priorities for conserving the Santa Ana River and its watershed in accordance with the purposes of the conservancy as set forth in Section 33815.

(2) Identify underused, existing public open spaces and recommend ways to provide better public use and enjoyment in those areas.

(3) Identify and prioritize additional low-impact recreational and open space needs, including additional or upgraded facilities and parks that may be necessary or desirable.

33825. The board shall consist of the following voting members and nonvoting members appointed as follows:

(a) _____

33826. (a) The term of each voting member of the board shall be two years, or until the member's successor is appointed, whichever is longer. A vacancy shall be filled within 60 days of its occurrence by the appointing authority.

(b) Notwithstanding subdivision (a), a person may not continue as a member of the board if he or she ceases to hold the office that qualifies him or her to be appointed as a member of the board. The membership on the board held by the person shall terminate if the person ceases to hold the qualifying office or membership.

1 (c) The voting members of the board shall elect a chairperson,
2 vice chairperson, and other officers, as necessary, from among the
3 board members. The board shall determine the terms of those
4 offices.

5 (d) A member of the board who is not a full-time public
6 employee shall be compensated at a rate not to exceed one hundred
7 dollars (\$100) per regular meeting, not to exceed 12 regular
8 meetings per year, and shall be reimbursed the actual and
9 necessary expenses incurred in the performance of his or her
10 duties. A member may waive compensation.

11 (e) The conservancy may employ an executive officer and
12 other necessary staff to perform functions that cannot be provided
13 by the existing personnel, by others on a contract basis, or by
14 volunteers, and may enter into a contract for services requiring
15 knowledge, experience, and ability not possessed by the
16 conservancy staff. The board shall approve those contracts.

17 33830. (a) A quorum shall consist of a majority of the voting
18 members of the board. All meetings of the board shall be held in
19 accordance with the Bagley-Keene Open Meeting Act (Article 9
20 (commencing with Section 11120) of Chapter 1 of Part 1 of
21 Division 3 of Title 2 of the Government Code).

22 (b) An action of the board affecting a matter shall be taken by
23 a majority vote of the membership of the board, a quorum being
24 present.

25 (c) The governing board shall adopt its own rules and
26 procedures necessary to conduct its business.

27 28 Article 3. Powers and Duties 29

30 33840. The conservancy may manage, operate, administer,
31 and maintain the lands and facilities it acquires in accordance with
32 the purposes set forth in Section 33815. The conservancy may
33 adopt regulations governing public use of conservancy lands and
34 facilities and may provide for the enforcement of those
35 regulations.

36 33841. (a) The conservancy may acquire real property or an
37 interest in real property pursuant to the Property Acquisition Law
38 (Part 11 (commencing with Section 15850) of Division 3 of Title
39 2 of the Government Code) within the conservancy's territory
40 from willing sellers and at fair market value, upon a finding that

1 the acquisition is consistent with the purposes of the conservancy
 2 as set forth in Section 33815. The conservancy may acquire the
 3 property itself or may coordinate the acquisition through other
 4 public agencies that have the authority to acquire property and that
 5 have available funding or land to exchange. The conservancy may
 6 hold a remainder interest in property in those instances in which
 7 an owner desires to sell the property and retain a life estate, and
 8 may create and administer a mitigation land bank and arrange land
 9 exchanges, consistent with the purposes set forth in Section 33815.
 10 The overall objective of the land acquisition program shall be to
 11 assist in accomplishing land transactions that are mutually
 12 beneficial to the landowner and the conservancy, and that meet the
 13 conservancy's purposes. Neither the conservancy nor the State
 14 Public Works Board may exercise the power of eminent domain
 15 pursuant to this division.

16 (b) To the extent not in conflict with another law, the
 17 conservancy may exercise the right of first refusal for surplus
 18 public agency property located within its territory for the purposes
 19 of the conservancy, as set forth in Section 33815, subject to the
 20 conditions and provisions of the adopted Santa Ana River Parkway
 21 and Open Space Plan, and shall conform to all relevant general and
 22 specific plans and zoning regulations of local agencies within the
 23 territory of the conservancy.

24 (c) Prior to entering into an agreement to acquire an interest in
 25 real property, or to lease, rent, sell, exchange, or transfer real
 26 property or an interest therein or an option acquired under this
 27 division, within the territory of the conservancy for open space or
 28 conservation purposes, the conservancy shall provide 30 days
 29 written notice to the legislative body of the affected local agency,
 30 if that project was not included in the Santa Ana River Parkway
 31 and Open Space Plan.

32 33842. (a) The conservancy shall have, and may exercise, all
 33 rights and powers, expressed or implied, necessary to carry out the
 34 purposes of this division, except as otherwise provided.

35 (b) The conservancy may not levy a tax, exercise the power of
 36 eminent domain, or regulate land use, except on lands it owns,
 37 manages or controls.

38 (c) The conservancy shall be subject to all laws, regulations,
 39 and general and specific plans of the legislative body of the local

1 agency that has jurisdiction in the area in which the conservancy
2 proposes to take action.

3 33843. The conservancy may do all of the following:

4 (a) Sue and be sued.

5 (b) Enter into contracts with a public agency, private entity, or
6 person necessary for the proper discharge of the conservancy's
7 duties, and enter into a joint powers agreement with a public
8 agency, in furtherance of the purposes set forth in Section 33815.

9 (c) Lease, rent, sell, exchange, or transfer real property or
10 interest therein or an option acquired under this division to a local
11 public agency, state agency, federal agency, nonprofit
12 organization, individual, or other entity pursuant to terms and
13 conditions approved by the conservancy for management
14 purposes, in accordance with the purposes set forth in Section
15 33815.

16 (d) Initiate, negotiate, and participate in an agreement for the
17 management of land under its ownership or control by a local
18 public agency, state agency, federal agency, nonprofit
19 organization, individual, or other entity, and initiate, negotiate,
20 and participate in an agreement for the management of land under
21 the ownership or control of those entities by the conservancy, in
22 accordance with the purposes set forth in Section 33815.

23 (e) Enter into an agreement with a public agency, private entity,
24 or person necessary for the proper discharge of the conservancy's
25 duties for the purposes set forth in Section 33815.

26 (f) Recruit and coordinate volunteers and experts to conduct
27 interpretive and recreational programs and assist with construction
28 projects and the maintenance of parkway facilities.

29 (g) Undertake, within the territory, site improvement projects,
30 regulate public access, and revegetate and rehabilitate degraded
31 areas, in consultation with another public agency with appropriate
32 jurisdiction and expertise, in accordance with the purposes set
33 forth in Section 33815. The conservancy may also, within the
34 territory, upgrade deteriorating facilities and construct new
35 facilities as needed for outdoor recreation, nature appreciation and
36 interpretation, and natural resources protection. The conservancy
37 may undertake those projects by itself or in conjunction with
38 another local agency; however, the conservancy shall provide
39 overall coordination of those projects by setting priorities for the
40 projects and by ensuring a uniform approach to projects. The

1 conservancy may undertake those projects after 30 days written
2 notice to the legislative body of the local agency that has
3 jurisdiction in the area in which the conservancy proposes to
4 undertake that activity.

5 33844. (a) The conservancy may award grants to local public
6 agencies, state agencies, federal agencies, and nonprofit
7 organizations for the purposes of this division.

8 (b) A grant to a nonprofit organization for the acquisition of
9 real property or interests in real property shall be subject to all of
10 the following conditions:

11 (1) The purchase price of an interest in land acquired by the
12 nonprofit organization may not exceed fair market value as
13 established by an appraisal approved by the conservancy.

14 (2) The conservancy approves the terms under which the
15 interest in land is acquired.

16 (3) The interest in land acquired pursuant to a grant from the
17 conservancy may not be used as security for a debt incurred by the
18 nonprofit organization unless the conservancy approves the
19 transaction.

20 (4) The transfer of land acquired pursuant to a grant shall be
21 subject to the approval of the conservancy and the execution of an
22 agreement between the conservancy and the transferee sufficient
23 to protect the interests of the state.

24 (5) The state shall have a right of entry and power of
25 termination in and over all interests in real property acquired with
26 state funds, which may be exercised if an essential term or
27 condition of the grant is violated.

28 (6) If the existence of the nonprofit organization is terminated,
29 title to all interest in real property acquired with state funds shall
30 immediately vest in the state, except that, prior to that termination,
31 another public agency or nonprofit organization may receive title
32 to all or a portion of that interest in real property, by recording its
33 acceptance of title, together with the conservancy's approval, in
34 writing.

35 (c) A deed or other instrument of conveyance whereby real
36 property is acquired by a nonprofit organization pursuant to this
37 section shall be recorded and shall set forth the executory interest
38 or right of entry on the part of the state.

1 33845. (a) The Santa Ana River Conservancy Fund is hereby
2 created in the State Treasury. Moneys in the fund shall be
3 available, upon appropriation, for the purposes of this division.

4 (b) The fee revenue and all other revenue received pursuant to
5 this division shall be deposited in the fund.

6 (c) The conservancy shall administer funds appropriated to it,
7 and may expend those funds for capital improvements, land
8 acquisition, or support of the conservancy's operations, in
9 accordance with the purposes set forth in Section 33815. The
10 conservancy may also accept revenue, money, grants, goods, or
11 services contributed to it by a public agency, private entity, or
12 person and, upon receipt, may use the revenue, money, grants,
13 goods, or services for capital improvements, land acquisitions, or
14 support of the conservancy's operations, in accordance with the
15 purposes set forth in Section 33815.

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17 Article 4. Limitations
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19 33850. Nothing in this division shall be interpreted to grant
20 the board any regulatory or governing authority over an ordinance
21 or regulatory measure adopted by a city, county, or special district
22 that pertains to land use, water rights, or environmental quality.

23 (a) Notwithstanding any other provision of this division, the
24 conservancy may not take an action that does any of the following:

25 (1) Interferes or conflicts with the exercise of the powers or
26 duties of a watermaster, public agency, or other body or entity
27 responsible for groundwater or surface water management or
28 groundwater replenishment as designated or established pursuant
29 to an adjudication or statute.

30 (2) Interferes or conflicts with a provision of a judgment or
31 court order issued, or rule or regulation adopted, pursuant to an
32 adjudication affecting water or water management in the Santa
33 Ana River watershed and basin.

34 (3) Impedes or adversely impacts a previously duly adopted
35 flood control project, or a maintenance agreement to operate the
36 project.

37 (4) Results in the degradation of water quality, or interferes or
38 conflicts with one or more of the following:

39 (A) An action by a watermaster or public agency that is
40 authorized pursuant to statute.

(B) A water right or adjudication including, but not limited to, an action relating to water conservation, groundwater recharge, conservation or storage of water or both, the pumping of groundwater, water treatment, the regulation of spreading, injection, pumping, storage, or the use of water from local sources, stormwater flows and runoff, or from imported or reclaimed water that is undertaken in connection with the management of the Santa Ana River or a branch, stream, fork, or tributary thereof, a groundwater basin, or groundwater resource.

(5) Interferes with, obstructs, hinders, or delays the exercise of a water right by the owner of a public water system, including, but not limited to, the construction, operation, maintenance, replacement, repair, location, or relocation of a well or water pumping, treatment, or storage facility, pipeline, or other facility, or property necessary or useful to the operation of the public water system.

(b) The conservancy shall provide written notice to every water association in the jurisdiction of the conservancy of a proposed action, policy, or project that may affect a water right or water delivery system at least 45 calendar days prior to the date set for approval of those matters by the conservancy.

(c) The conservancy shall consult with other conservancies within the Resources Agency prior to implementing a project pursuant to this division in which there may be a jurisdictional overlap between those conservancies. Each of those conservancies shall make its best effort to resolve issues regarding a project development that is carried out pursuant to this division in a mutually advantageous and environmentally beneficial manner. A dispute between the conservancies shall be referred to the Resources Agency for resolution.

(d) As used in this section, “adjudication” means a final judgment or order entered in a judicial proceeding adjudicating or affecting water rights, surface water management, or groundwater management.

Article 5. Repeal

33860. (a) Section 33845 shall not become operative until the Legislature appropriates funds necessary to implement this

- 1 division, or until a bond act approved by the voters of this state
- 2 includes an allocation of funds for the purposes of this division.
- 3 (b) This division shall remain in effect only until January 1,
- 4 2011, and as of that date is repealed, unless a later enacted statute,
- 5 that is enacted before January 1, 2011, deletes or extends that date.

